

ISSUE INDEX

The Issue Index is arranged alphabetically. The issue headings appear on the left margin underlined and in bold. Below each heading you will find short, descriptive summaries of the Commission's rationale and holdings. Each summary, in turn, is followed by a citation to the applicable Commission decision.

NOTE: The summaries are not law. Please refer to the official Commission decisions for the actual text, rationale, and holdings.

Burden of Proof

In cases involving Rule 190 discipline, the state must prove its case by a preponderance of the evidence.

Anderson v. Idaho Transportation Department, IPC No. 97-10 (Decision and Order on Petition for Review, September 9, 2002)

Credibility of Witnesses

This Commission has previously held that credibility issues are within the province of the hearing officer.

Mills v. Idaho Transportation Department, IPC No. 00-39 (Decision and Order on Petition for Review, August 13, 2002)

Where credibility of witnesses is an issue, the Commission will usually rely on the determination of the hearing officer who was in a position to judge the credibility and relative credibility of the witnesses.

Mills v. Idaho Transportation Department, IPC No. 00-39 (Decision and Order on Petition for Review, August 13, 2002)

Where credibility is crucial and where first-hand exposure to the witnesses may strongly affect the outcome, we think the Commission should not override the hearing officer's impressions unless it makes a cogent explanation of its reasons for doing so.

Mills v. Idaho Transportation Department, IPC No. 00-39 (Decision and Order on Petition for Review, August 13, 2002)

Evidence

The Commission is precluded from taking further evidence on petition for review than that which exists in the record before the Hearing Officer.

Anderson v. Idaho Transportation Department, IPC No. 97-10 (Order on Appellant's Post-Hearing Exhibits, July 25, 2002).

Karr v. Division of Veterans Services, IPC No. 01-19 (Order Denying Appellant's Motion to Augment Record, December 3, 2002)

Rule 190 Discipline

In matters involving Rule 190 discipline, the questions before the Commission are whether the department proved, by a preponderance of the evidence, that the employee was properly subject to discipline, and whether the hearing officer's findings of fact are supported by substantial, competent evidence.

Mills v. Idaho Transportation Department, IPC No. 00-39 (Decision and Order on Petition for Review, August 13, 2002)

Rule 190.01.a: Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the department or the personnel commission

Hearing officer was correct in holding that the employee's violation of employer's Harassment in the Workplace policy constituted conduct falling below the standard of behavior reasonably expected by the employer in violation of Rule 190.01.a.

Mills v. Idaho Transportation Department, IPC No. 00-39 (Decision and Order on Petition for Review, August 13, 2002)

Rule 190.01.e: Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the department

Employee's conduct exposing department employer to potential Title VII claim is "conduct detrimental to good order and discipline in the department" in violation of Rule 190.01.e.

Rule 190.01.k: Habitual pattern of failure to report for duty at the assigned time and place

Employee's frequent absenteeism (161 hours out of a possible 260 work hours) without excuse, as found by the Hearing Officer on the undisputed factual record, constitutes violation of Rule 190.01.k.

Anderson v. Idaho Transportation Department, IPC No. 97-10 (Decision and Order on Petition for Review, September 9, 2002)

Standard and Scope of Review

On appeal to the Commission, matters are assigned to a hearing officer who conducts a full evidentiary hearing and may allow motion and discovery practice before entering a decision containing findings of fact and conclusions of law.

Mills v. Idaho Transportation Department, IPC No. 00-39 (Decision and Order on Petition for Review, August 13, 2002)

Anderson v. Idaho Transportation Department, IPC No. 97-10 (Decision and Order on Petition for Review, September 9, 2002)

When considering a petition for review, the Commission reviews the record of the proceeding below together with any briefs or transcripts submitted by the parties.

Mills v. Idaho Transportation Department, IPC No. 00-39 (Decision and Order on Petition for Review, August 13, 2002)

Findings of fact made by the hearing officer must be supported by substantial, competent evidence.

Mills v. Idaho Transportation Department, IPC No. 00-39 (Decision and Order on Petition for Review, August 13, 2002)

The Commission exercises free review over issues of law.

Mills v. Idaho Transportation Department, IPC No. 00-39 (Decision and Order on Petition for Review, August 13, 2002)

Anderson v. Idaho Transportation Department, IPC No. 97-10 (Decision and Order on Petition for Review, September 9, 2002)

Summary judgment can be rendered if the pleadings on file, together with any affidavits, show that there is no genuine issue as to any material fact. Under such circumstances, a party is entitled to judgment as a matter of law. I.R.C.P. 56(c).

Anderson v. Idaho Transportation Department, IPC No. 97-10 (Decision and Order on Petition for Review, September 9, 2002) (Citing *Kaufold v. Idaho Personnel Commission*, IPC No. 96-06, November 6, 1996)

On petition for review, the Commission may “affirm, reverse or modify the decision of the hearing officer, may remand the matter, or may dismiss it for lack of jurisdiction.” Idaho Code § 67-5317(1).

Mills v. Idaho Transportation Department, IPC No. 00-39 (Decision and Order on Petition for Review, August 13, 2002)

Anderson v. Idaho Transportation Department, IPC No. 97-10 (Decision and Order on Petition for Review, September 9, 2002)